IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

Single Bench

M.A. NO. 274 /2005

APPELLANT/
PLAINTIFF

Radhe Lal Sahu,
aged about 60 years, S/O Late Shri Pusau Sahu, Adopter Father Late Shri Sahadev Sahu, R/O - House No. 33/930 (Old) 33/1047 (New) Guru Ghasidas Ward Near Railway Crossing, Telibandha, Raipur, Tehsil and District – Raipur, Chhattisgarh.

VERSUS

RESPONDENTS/
DEFENDANTS

1. Shri Tarachand Sahu, aged about – 34 years, S/O Late Shri Pyarilal Sahu.

2. Shri Rikhiram Sahu, aged about – 39 years, S/O Late Shri Pyarilal Sahu.

3. Shri Laxminarayan Sahu, aged about – 27 years, S/O Late Shri Pyarilal Sahu.

4. Shri Ganeshram Sahu, aged about – 41 years, S/O Late Shri Pyarilal Sahu.

5. Shri Jagdish Sahu, aged about – 44years, S/O Late Shri Pyarilal Sahu.

6. Shri Daniram Sahu, aged about – 47 years, S/O Late Shri Pyarilal Sahu.

(All are resident of Village Telibandha, Guru Ghasidas Ward, Near

Railway Crossing, Infront of Durga Mata Mandir, Raipur, Tehsil and District – Raipur, Chhattisgarh.

7. Smt. Soni Bai, aged about – 34 years, W/O Shri Budharuram Sahu, R/O – Sahupara, Near Panchayat Bhawan, Matagaon, Tehsil and District – Raipur, Chhattisgarh.

8. Biraji Bai, aged about- 65 years, W/o Late Shri Pyarilal Sahu.

9. Sukhia Bai, aged about 65 years, W/O Late Shri Pyarilal Sahu, Sr. 8 & 9, R/O - Telibandha, Guru Ghasidas Ward, Near Railway Crossing, Infront of Durga Mata Mandir, Raipur, Tehsil and District – Raipur, Chhattisgarh.

10. Smt. Kamala Bai, aged about – 50 years, W/O Shri Vijay Kumar Sahu, R/O Village - Sondongri, Post – Tendua, Tehsil & District – Raipur, Chhattisgarh.

11. Smt. Kusum Bai, aged about – 42 years, W/O Shri Lakhan Sahu, R/O – Village Khamtrai Ward No. 10, Tehsil & District – Raipur, Chhattisgarh.

12. Kumari Bai @ Khujji Bai, aged about – 39 years, W/O Shri Dhanaram Sahu, R/O – Village Telibandha Guru Ghasidas Ward Ambedkar Nagar, Tehsil & District – Raipur, Chhattisgarh.

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13. Smt. Bhuneshwari Bai, aged about – 32 years, W/O Shri Samaru Ram Sahu, R/O Village Sondongri, Post – Tendua, Tehsil & District – Raipur, Chhattisgarh.

14. Smt. Phuleshwari Bai, aged about – 28 years, W/O Shri Raj Kumar Sahu, R/O Village Near Sarora-Sondongri, Post – Tendua, Tehsil & District – Raipur, Chhattisgarh.

15. Shri Kishore Keshwani, S/O – Unknown, H.P.L.P. Gas Cylinder Transporting Contractor.

16. Shri N.L. Sahu, S/O – Unknown, Pooja Furniture.

17. Shri Mohit Ram, S/O – Unknown, Ram Hair Cutting Saloon.

(All are resident of Telibandha, Raipur, Chhattisgarh)

18. State of Chhattisgarh, Through: Collector, Raipur, Chhattisgarh.

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MISCELLANEOUS APPEAL UNDER ORDER 43 RULE 1 OF THE CODE OF CIVIL PROCEDURE

XI-HC-22

(29)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक MA 2741 सन् 2005

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.03.2006

Shri Kishore Bhaduri, counsel for the appellant.

Shri Amiyakant Tiwari, counsel for respondents No.1 to 17.

Shri GD Vaswani, Government Advocate for the State / respondent No.18.

Heard on admission and M.(C.)P.No.347/2005 for temporary injunction.

Appellant filed a suit for declaration, permanent injunction and possession on the ground that he is adopted son of late Sahadev. He also filed an application under Order XXXIX Rule 1 & 2 of the CPC for grant of temporary injunction. Respondents 1 to 14 and 17 denied the claim of the appellant.

It is evident that late Sahadev Sahu and Bisahin Bai were husband and wife. After death of Sahadev, appellant lived with Bisahin Bai. Suit property is in possession of respondents No.1 to 17. In revenue record some of the suit property has been recorded in the name of respondent No.4 - Ganeshram Sahu. Respondents are claiming the suit property on the basis of Will executed by Bisahin Bai.

Neither appellant is recorded as owner of the suit property nor is in possession of the same. If he had any right over the suit

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक MA 274/05 सन् 200

विरुद्ध

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property, his rights are protected under Section 52 of the Transfer of Property Act 1882. At present, the property is in possession of respondents No.1 to 17 and some of the property has been recorded in the name of one of the respondents (respondent No.4) in the revenue record.

Taking into consideration these facts, in my opinion, principal of irreparable injury and balance of convenience does not find favour of the appellant.

Learned trial court after due evaluation of the material available on record rightly dismissed the application by the impugned order dated 21.12.2004 and it does not call for any interference by this Court. Therefore, the appeal filed by the appellant is dismissed summarily.

M.(C.)P.No.347/2005, IA Nos.1101/2005 & 670/2006 stand disposed of accordingly.

Sd/-
Vijay Kumar Shrivastava
Judge

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